

Message Text

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FM SECSTATE WASHDC

TO AMCONSUL MUNICH PRIORITY

INFO AMEMBASSY BONN PRIORITY

C O N F I D E N T I A L STATE 276912

E.O. 11652: GDS

TAGS: SOPN, PINS, GW, PL

SUBJECT: RFE-USG RELATIONSHIP

REF: A. MUNICH 2673 B. STATE 269928

1. FOLLOWING IS TEXT OF MOELLER LETTER AS REVISED BY RFE/RL ATTORNEYS IN CONSULTATION WITH BIB AND DEPT. RFE/RL REQUESTS THAT REVISED TEXT BE PASSED TO SCOTT FOR MOELLER. RFE MAY TRANSMIT LETTER IN THIS FORM AS SOON AS THEY CONSIDER IT APPROPRIATE.

2. QUOTE

I REFER TO OUR SEVERAL TELEPHONE CONVERSATIONS CONCERNING THE ABOVE-MENTIONED CASE. IN MY ROLE AS LEGAL REPRESENTATIVE OF THE FORMER AMERICAN CORPORATION, FREE EUROPE, INC., AND ITS LEGAL SUCCESSOR, RFE/RL, INC., THE PRESENT OPERATOR OF THE BROADCASTING STATION, RADIO FREE EUROPE, MAY I INFORM YOU OF THE FOLLOWING:

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FREE EUROPE, INC., WAS INCORPORATED UNDER THE PRIVATE,

NOT-FOR-PROFIT CORPORATION LAWS OF THE STATE OF NEW YORK.
IT WAS INCORPORATED ON MAY 11, 1949, UNDER THE NAME "THE
COMMITTEE FOR FREE EUROPE, INC." ITS NAME WAS CHANGED

SEVERAL TIMES. A CERTIFIED COPY OF ITS CORPORATE CHARTER
ISSUED MAY 11, 1949, WITH AMENDMENTS THERETO, TRANSLATED
INTO GERMAN IS ENCLOSED. THE CORPORATION, FREE EUROPE,
INC., OPERATED THE BROADCASTING STATION, RADIO FREE
EUROPE, AS A SUBDIVISION WHICH WAS NOT AN INDEPENDENT
LEGAL ENTITY.

THE LEGAL COMPETENCE OF THE FORMER COMMITTEE FOR A FREE
EUROPE, INC., IN ACCORDANCE WITH ARTICLE 10 OF THE
IMPORTATION LAW, CIVIL CODE, HAS BEEN RECOGNIZED BY
ORDER OF THE FEDERAL MINISTRY OF INTERNAL AFFAIRS, DATED
JULY 24, 1953. A CERTIFIED COPY OF THIS DOCUMENT IS EN-
CLOSED. THIS RECOGNITION HAS NEVER BEEN REVOKED. SINCE
THE RESCISSION OF ARTICLE 10 BY THE ASSOCIATION ACT OF
AUGUST 5, 1964, AN EXPLICIT RECOGNITION IS NO LONGER
REQUIRED. THE RADIOS' INSTALLATIONS IN THE FEDERAL
REPUBLIC ARE OPERATED ON THE BASIS OF A RADIO TRANS-
MISSION LICENSE OF THE FEDERAL MINISTRY FOR POST AND
TELECOMMUNICATIONS, DATED JULY 11, 1955. A CERTIFIED
PHOTOSTAT COPY OF THIS LICENSE IS ENCLOSED.

EFFECTIVE OCTOBER 1, 1976, THE AMERICAN CORPORATION,
RFE/RL, INC., HAS BECOME, BY MEANS OF A MERGER EFFECTED
PURSUANT TO THE APPLICABLE LAWS OF THE STATES OF NEW YORK
AND OF DELAWARE, THE LEGAL SUCCESSOR OF RADIO LIBERTY
COMMITTEE, INC. AND FREE EUROPE, INC. RFE/RL, INC.,
CONSTITUTES A CORPORATION EXISTING AND IN GOOD STANDING
PURSUANT TO THE GENERAL CORPORATION LAWS OF THE STATE
OF DELAWARE. A COPY OF THE PLAN OF MERGER AND ARTICLES
OF INCORPORATION OF RFE/RL, INC., ARE ENCLOSED. IT CON-
TINUES TO OPERATE THE BROADCASTING STATION RADIO FREE
EUROPE AS A SUBDIVISION WHICH IS NOT AN INDEPENDENT LEGAL
ENTITY.

RFE/RL, INC., AND ITS PREDECESSOR, FREE EUROPE, INC.,
RECEIVE ITS FINANCIAL MEANS ALMOST EXCLUSIVELY THROUGH
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GRANTS FROM THE BOARD FOR INTERNATIONAL BROADCASTING.
THIS ADMINISTRATIVE ORGAN WAS CREATED BY STATUTE ENACTED
BY THE CONGRESS OF THE UNITED STATES IN 1973. SUCH EN-
ACTMENT, INTER ALIA, AUTHORIZES THE BOARD FOR INTER-
NATIONAL BROADCASTING TO GRANT RFE/RL, INC., AND ITS
PREDECESSOR THE NECESSARY OPERATING FUNDS, WITHIN THE
SCOPE OF FUNDS WHICH THE CONGRESS APPROPRIATES TO THE
BOARD FOR INTERNATIONAL BROADCASTING ANNUALLY AS A PART

OF THE BUDGET OF THE UNITED STATES. A COPY OF THE ACT

ESTABLISHING THE BOARD FOR INTERNATIONAL BROADCASTING AND
SPECIFYING ITS FUNCTIONS, INCLUDING THE MOST RECENT
AMENDMENTS TO THAT ACT, ARE ENCLOSED.

THE FUNCTIONS OF RFE/RL, INC., ARE ESSENTIALLY DEFINED IN
THE ACT, ITS ARTICLES OF INCORPORATION, AND THE OTHER
DOCUMENTS REFERRED TO HEREIN.

WE RESPECTFULLY EXPRESS NO OPINION WHETHER THE ACTIVITIES
OF THE CORPORATION OR ITS PREDECESSOR CONSTITUTE STATE
FUNCTIONS OF THE UNITED STATES OF AMERICA WITHIN THE MEAN-
ING OF THE PROVISIONS OF THE CRIMINAL CODE OF THE FEDERAL
REPUBLIC OF GERMANY WHICH MAY BE APPLICABLE IN THE ABOVE-
MENTIONED CASE. THIS IS A MATTER APPROPRIATELY TO BE DE-
CIDED BY THE AUTHORITIES OF THE FEDERAL REPUBLIC OF
GERMANY. WE UNDERSTAND THAT ANY SUCH DETERMINATION MADE
BY THE AUTHORITIES OF THE FEDERAL REPUBLIC OF GERMANY IN
THE CONTEXT OF THE ABOVE-MENTIONED CASE AND THE LAWS OF
THE FEDERAL REPUBLIC OF GERMANY APPLICABLE THERETO WILL
NOT CONSTITUTE A PRECEDENT IN OTHER CONTEXTS UNDER THE
LAWS APPLICABLE IN SUCH OTHER CONTEXTS OF THE UNITED
STATES OF AMERICA, THE FEDERAL REPUBLIC OF GERMANY OR THE
OTHER NATION STATES WITHIN WHICH THE CORPORATION OPERATES.

(COMPLIMENTARY CLOSING.) END QUOTE. KISSINGER

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